

110TH CONGRESS  
1ST SESSION

# S. 1580

To reauthorize the Coral Reef Conservation Act of 2000, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 7, 2007

Mr. INOUE (for himself, Mr. STEVENS, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To reauthorize the Coral Reef Conservation Act of 2000,  
and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Coral Reef Conservation Amendments Act of 2007”.

6       (b) TABLE OF CONTENTS.—The table of contents for  
7       this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Amendment of Coral Reef Conservation Act of 2000.
- Sec. 3. Findings and purposes.
- Sec. 4. National coral reef action strategy.
- Sec. 5. Coral reef conservation program.
- Sec. 6. Coral reef conservation fund.

Sec. 7. Agreements.  
 Sec. 8. Emergency assistance.  
 Sec. 9. National program.  
 Sec. 10. Community-based planning grants.  
 Sec. 11. Vessel grounding inventory.  
 Sec. 12. Prohibited activities.  
 Sec. 13. Destruction of coral reefs.  
 Sec. 14. Enforcement.  
 Sec. 15. Permits.  
 Sec. 16. Regional, State, and Territorial coordination.  
 Sec. 17. Regulations.  
 Sec. 18. Effectiveness report.  
 Sec. 19. Authorization of appropriations.  
 Sec. 20. Judicial review.  
 Sec. 21. Definitions.

1 **SEC. 2. AMENDMENT OF CORAL REEF CONSERVATION ACT**  
 2 **OF 2000.**

3 Except as otherwise expressly provided, whenever in  
 4 this Act an amendment or repeal is expressed in terms  
 5 of an amendment to or repeal of a section or other provi-  
 6 sion, the reference shall be considered to be made to a  
 7 section or other provision of the Coral Reef Conservation  
 8 Act of 2000 (16 U.S.C. 6401 et seq.).

9 **SEC. 3. FINDINGS AND PURPOSES.**

10 Section 202 (16 U.S.C. 6401) is amended to read as  
 11 follows:

12 **“SEC. 202. FINDINGS AND PURPOSES.**

13 “(a) FINDINGS.—The Congress finds that—

14 “(1) coral reefs contain high biological diversity  
 15 and serve important ecosystem functions;

16 “(2) coral reef ecosystems provide economic and  
 17 environmental benefits in the form of food, jobs, nat-  
 18 ural products, and pharmaceuticals;

1           “(3) coral reef ecosystems are the basis of  
2 thriving commercial and recreational fishing and  
3 tourism industries;

4           “(4) a combination of stressors, including cli-  
5 mate change, has caused a rapid decline in the  
6 health of many coral reef ecosystems globally;

7           “(5) natural stressors on coral reef ecosystems  
8 are compounded by human impacts including pollu-  
9 tion, overfishing, and physical damage; and

10           “(6) healthy coral reefs provide shoreline pro-  
11 tection for coastal communities and resources.

12           “(b) PURPOSES.—The purposes of this Act are—

13           “(1) to preserve, sustain, and restore the condi-  
14 tion of coral reef ecosystems;

15           “(2) to promote the wise management and sus-  
16 tainable use of coral reef ecosystems to benefit local  
17 communities, the Nation, and the world;

18           “(3) to develop sound scientific information on  
19 the condition of coral reef ecosystems and the  
20 threats to such ecosystems;

21           “(4) to assist in the preservation of coral reef  
22 ecosystems by supporting conservation programs, in-  
23 cluding projects that involve affected local commu-  
24 nities and nongovernmental organizations;

1           “(5) to provide financial resources for those  
2       programs and projects;

3           “(6) to establish a formal mechanism for col-  
4       lecting and allocating monetary donations from the  
5       private sector to be used for coral reef conservation  
6       projects; and

7           “(7) to provide mechanisms to prevent and  
8       minimize damage to coral reefs.”.

9       **SEC. 4. NATIONAL CORAL REEF ACTION STRATEGY.**

10       Section 203(a) (16 U.S.C. 6402(a)) is amended to  
11       read as follows:

12       “(a) IN GENERAL.—Not later than 180 days after  
13       the date of the enactment of the Coral Reef Conservation  
14       Amendments Act of 2007, the Secretary shall submit to  
15       the Senate Committee on Commerce, Science, and Trans-  
16       portation and to the House of Representatives Committee  
17       on Natural Resources and publish in the Federal Register  
18       a national coral reef action strategy, consistent with the  
19       purposes of this title. The Secretary shall periodically re-  
20       view and revise the strategy as necessary. In developing  
21       this national strategy, the Secretary may consult the Coral  
22       Reef Task Force established under Executive Order 13089  
23       (June 11, 1998).”.

24       **SEC. 5. CORAL REEF CONSERVATION PROGRAM.**

25       Section 204 (16 U.S.C. 6403) is amended—

1           (1) by striking “Administrator” each place it  
2           appears and inserting “Secretary”;

3           (2) by striking subsection (a) and inserting the  
4           following:

5           “(a) GRANTS.—The Secretary, subject to the avail-  
6           ability of funds, shall provide grants of financial assistance  
7           for projects for the conservation of coral reef ecosystems  
8           (hereafter in this title referred to as ‘coral conservation  
9           projects’), for proposals approved by the Secretary in ac-  
10          cordance with this section.”;

11          (3) by striking subsection (c) and inserting the  
12          following:

13          “(c) ELIGIBILITY.—Any natural resource manage-  
14          ment authority of a State or other government authority  
15          with jurisdiction over coral reef ecosystems, or whose ac-  
16          tivities directly or indirectly affect coral reef ecosystems,  
17          or educational or nongovernmental institutions with dem-  
18          onstrated expertise in the conservation of coral reef eco-  
19          systems, may submit a coral conservation proposal to the  
20          Secretary under subsection (e).”;

21          (4) by striking “GEOGRAPHIC AND BIOLOGI-  
22          CAL” in the heading for subsection (d) and inserting  
23          “PROJECT”;

24          (5) by striking paragraph (3) of subsection (d)  
25          and inserting the following:

1 “(3) Remaining funds shall be awarded for—

2 “(A) projects (with priority given to com-  
3 munity-based local action strategies) that ad-  
4 dress emerging priorities or threats, including  
5 international and territorial priorities, or  
6 threats identified by the Secretary; and

7 “(B) other appropriate projects, as deter-  
8 mined by the Secretary, including monitoring  
9 and assessment, research, pollution reduction,  
10 education, and technical support.”;

11 (6) by striking subsection (g) and inserting the  
12 following:

13 “(g) CRITERIA FOR APPROVAL.—The Secretary may  
14 not approve a project proposal under this section unless  
15 the project is consistent with the coral reef action strategy  
16 under section 203 and will enhance the conservation of  
17 coral reef ecosystems nationally or internationally by—

18 “(1) implementing coral conservation programs  
19 which promote sustainable development and ensure  
20 effective, long-term conservation of coral reef eco-  
21 systems and biodiversity;

22 “(2) addressing the conflicts arising from the  
23 use of environments near coral reef ecosystems or  
24 from the use of corals, species associated with coral  
25 reef ecosystems, and coral products;

1           “(3) enhancing compliance with laws that pro-  
2           hibit or regulate the taking of coral products or spe-  
3           cies associated with coral reef ecosystems or regulate  
4           the use and management of coral reef ecosystems;

5           “(4) developing sound scientific information on  
6           the condition of coral reef ecosystems or the threats  
7           to such ecosystems and their biodiversity, including  
8           factors that cause coral disease and bleaching;

9           “(5) promoting and assisting the implementa-  
10          tion of cooperative coral reef ecosystem conservation  
11          projects that involve affected local communities, non-  
12          governmental organizations, or others in the private  
13          sector;

14          “(6) increasing public knowledge and awareness  
15          of coral reef ecosystems and issues regarding their  
16          long-term conservation, including how they function  
17          to protect coastal communities;

18          “(7) mapping the location, distribution, and  
19          biodiversity of coral reef ecosystems;

20          “(8) developing and implementing techniques to  
21          monitor and assess the status and condition of coral  
22          reef ecosystems and biodiversity;

23          “(9) developing and implementing cost-effective  
24          methods to restore degraded coral reef ecosystems  
25          and biodiversity;

1           “(10) responding to coral disease and bleaching  
2       events;

3           “(11) promoting activities designed to prevent  
4       or minimize damage to coral reef ecosystems, includ-  
5       ing the promotion of ecologically sound navigation  
6       and anchorages; or

7           “(12) promoting and assisting entities to work  
8       with local communities, and all appropriate govern-  
9       mental and nongovernmental organizations, to sup-  
10      port community-based planning and management  
11      initiatives for the protection of coral reef systems.”;  
12      and

13           (7) by striking “coral reefs” in subsection (j)  
14      and inserting “coral reef ecosystems”.

15   **SEC. 6. CORAL REEF CONSERVATION FUND.**

16       Section 205 (16 U.S.C. 6404) is amended—

17           (1) by striking subsection (a) and inserting the  
18      following:

19       “(a) **FUND.**—The Secretary may enter into agree-  
20      ments with nonprofit organizations promoting coral reef  
21      ecosystem conservation by authorizing such organizations  
22      to receive, hold, and administer funds received pursuant  
23      to this section. Such organizations shall invest, reinvest,  
24      and otherwise administer the funds and maintain such  
25      funds and any interest or revenues earned in a separate



1 interest-bearing account (referred to in section 218(a) as  
 2 the ‘Fund’) established by such organizations solely to  
 3 support partnerships between the public and private sec-  
 4 tors that further the purposes of this title and are con-  
 5 sistent with the national coral reef action strategy under  
 6 section 203.”;

7 (2) by striking “Administrator” in subsection  
 8 (c) and inserting “Secretary”;

9 (3) by striking “the grant program” in sub-  
 10 section (c) and inserting “any grant program”; and

11 (4) by striking “Administrator” in subsection  
 12 (d) and inserting “Secretary”.

### 13 **SEC. 7. AGREEMENTS.**

14 The Act (16 U.S.C. 6401 et seq.) is amended by re-  
 15 designating sections 206 through 210 as sections 207  
 16 through 211, respectively, and inserting after section 205  
 17 the following:

#### 18 **“SEC. 206. AGREEMENTS.**

19 “(a) IN GENERAL.—The Secretary may execute and  
 20 perform such contracts, leases, grants, or cooperative  
 21 agreements as may be necessary to carry out the purposes  
 22 of this title.

23 “(b) USE OF OTHER AGENCIES’ RESOURCES.—For  
 24 purposes related to the conservation, preservation, protec-  
 25 tion, restoration, or replacement of coral reefs or coral reef

1 ecosystems and the enforcement of this title, the Secretary  
2 is authorized to use, with their consent and with or with-  
3 out reimbursement, the land, services, equipment, per-  
4 sonnel, and facilities of any Department, agency, or in-  
5 strumentality of the United States, or of any State, local  
6 government, Indian tribal government, Territory or pos-  
7 session, or of any political subdivision thereof, or of any  
8 foreign government or international organization.

9 “(c) AUTHORITY TO UTILIZE GRANT FUNDS.—

10 “(1) Except as provided in paragraph (2), the  
11 Secretary may apply for, accept, and obligate re-  
12 search grant funding from any Federal source oper-  
13 ating competitive grant programs where such fund-  
14 ing furthers the purpose of this title.

15 “(2) The Secretary may not apply for, accept,  
16 or obligate any grant funding under paragraph (1)  
17 for which the granting agency lacks authority to  
18 grant funds to Federal agencies, or for any purpose  
19 or subject to conditions that are prohibited by law  
20 or regulation.

21 “(3) Appropriated funds may be used to satisfy  
22 a requirement to match grant funds with recipient  
23 agency funds, except that no grant may be accepted  
24 that requires a commitment in advance of appropria-  
25 tions.

1           “(4) Funds received from grants shall be depos-  
2           ited in the National Oceanic and Atmospheric Ad-  
3           ministration account for the purpose for which the  
4           grant was awarded.”.

5 **SEC. 8. EMERGENCY ASSISTANCE.**

6           Section 207 (formerly 16 U.S.C. 6405), as redesign-  
7           nated, is amended to read as follows:

8 **“SEC. 207. EMERGENCY ASSISTANCE.**

9           “The Secretary, in cooperation with the Federal  
10          Emergency Management Agency, as appropriate, may pro-  
11          vide assistance to any State, local, or territorial govern-  
12          ment agency with jurisdiction over coral reef ecosystems  
13          to address any unforeseen or disaster-related circumstance  
14          pertaining to coral reef ecosystems.”.

15 **SEC. 9. NATIONAL PROGRAM.**

16          Section 208 (formerly 16 U.S.C. 6406), as redesign-  
17          nated, is amended to read as follows:

18 **“SEC. 208. NATIONAL PROGRAM.**

19          “(a) IN GENERAL.—Subject to the availability of ap-  
20          propriations, the Secretary may conduct activities, includ-  
21          ing with local, regional, or international programs and  
22          partners, as appropriate, to conserve coral reef eco-  
23          systems, that are consistent with this title, the National  
24          Marine Sanctuaries Act, the Coastal Zone Management  
25          Act of 1972, the Magnuson-Stevens Fishery Conservation

1 and Management Act, the Endangered Species Act of  
2 1973, and the Marine Mammal Protection Act of 1972.

3 “(b) AUTHORIZED ACTIVITIES.—Activities author-  
4 ized under subsection (a) include—

5 “(1) mapping, monitoring, assessment, restora-  
6 tion, socioeconomic and scientific research that ben-  
7 efit the understanding, sustainable use, biodiversity,  
8 and long-term conservation of coral reef ecosystems;

9 “(2) enhancing public awareness, education, un-  
10 derstanding, and appreciation of coral reef eco-  
11 systems;

12 “(3) removing, and providing assistance to  
13 States in removing, abandoned fishing gear, marine  
14 debris, and abandoned vessels from coral reef eco-  
15 systems to conserve living marine resources;

16 “(4) responding to incidents and events that  
17 threaten and damage coral reef ecosystems, includ-  
18 ing disease and bleaching;

19 “(5) conservation and management of coral reef  
20 ecosystems;

21 “(6) centrally archiving, managing, and distrib-  
22 uting data sets and providing coral reef ecosystem  
23 assessments and services to the general public. with  
24 local, regional, or international programs and part-  
25 ners; and

1           “(7) activities designed to prevent or minimize  
2       damage to coral reef ecosystems, including those ac-  
3       tivities described in section 211 of this title.

4       “(c) DATA ARCHIVE, ACCESS, AND AVAILABILITY.—  
5       The Secretary, in coordination with similar efforts at other  
6       Departments and agencies shall provide for the long-term  
7       stewardship of environmental data, products, and informa-  
8       tion via data processing, storage, and archive facilities  
9       pursuant to this title. The Secretary may—

10           “(1) archive environmental data collected by  
11       Federal, State, local agencies and tribal organiza-  
12       tions and federally funded research;

13           “(2) promote widespread availability and dis-  
14       semination of environmental data and information  
15       through full and open access and exchange to the  
16       greatest extent possible, including in electronic for-  
17       mat on the Internet;

18           “(3) develop standards, protocols and proce-  
19       dures for sharing Federal data with State and local  
20       government programs and the private sector or aca-  
21       demia; and

22           “(4) develop metadata standards for coral reef  
23       ecosystems in accordance with Federal Geographic  
24       Data Committee guidelines.

1       “(d) EMERGENCY RESPONSE, STABILIZATION, AND  
 2 RESTORATION.—The Secretary shall establish an account  
 3 (to be called the Emergency Response, Stabilization, and  
 4 Restoration Account) in the Damage Assessment Restora-  
 5 tion Revolving Fund established by the Department of  
 6 Commerce Appropriations Act, 1991 (33 U.S.C. 2706  
 7 note), for implementation of this subsection for emergency  
 8 actions. Amounts appropriated for the Account under sec-  
 9 tion 218, and funds authorized by sections 212(d)(3)(B)  
 10 and 213(f)(3)(B), shall be deposited into the Account and  
 11 made available for use by the Secretary as specified in sec-  
 12 tions 212 and 213.”.

13 **SEC. 10. COMMUNITY-BASED PLANNING GRANTS.**

14       The Act (16 U.S.C. 6401 et seq.) is amended by fur-  
 15 ther redesignating sections 209 through 211, as redesign-  
 16 nated, as sections 210 through 212, respectively, and in-  
 17 serting after section 208 the following:

18 **“SEC. 209. COMMUNITY-BASED PLANNING GRANTS.**

19       “(a) IN GENERAL.—The Secretary may make grants  
 20 to entities who have received grants under section 204 to  
 21 provide additional funds to such entities to work with local  
 22 communities and through appropriate Federal and State  
 23 entities to prepare and implement plans for the increased  
 24 protection of coral reef areas identified by the community

1 and scientific experts as high priorities for focused atten-  
 2 tion. The plans shall—

3 “(1) support attainment of 1 or more of the cri-  
 4 teria described in section 204(g);

5 “(2) be developed at the community level;

6 “(3) utilize watershed-based approaches;

7 “(4) provide for coordination with Federal and  
 8 State experts and managers; and

9 “(5) build upon local approaches or models, in-  
 10 cluding traditional or island-based resource manage-  
 11 ment concepts.

12 “(b) TERMS AND CONDITIONS.—The provisions of  
 13 subsections (b), (d), (f), and (h) of section 204 apply to  
 14 grants under subsection (a), except that, for the purpose  
 15 of applying section 204(b)(1) to grants under this section,  
 16 ‘75 percent’ shall be substituted for ‘50 percent’.”.

17 **SEC. 11. VESSEL GROUNDING INVENTORY.**

18 The Act (16 U.S.C. 6401 et seq.) is further amended  
 19 by redesignating sections 210 through 212, as redesign-  
 20 nated, as sections 211 through 213, and inserting after  
 21 section 209, as added by section 10, the following:

22 **“SEC. 210. VESSEL GROUNDING INVENTORY.**

23 “(a) IN GENERAL.—The Secretary may maintain an  
 24 inventory of all vessel grounding incidents involving coral  
 25 reefs, including a description of—

1 “(1) the impacts to affected coral reef eco-  
2 systems;

3 “(2) vessel and ownership information, if avail-  
4 able;

5 “(3) the estimated cost of removal, mitigation,  
6 or restoration;

7 “(4) the response action taken by the owner,  
8 the Secretary, the Commandant of the Coast Guard,  
9 or other Federal or State agency representatives;

10 “(5) the status of the response action, including  
11 the dates of vessel removal and mitigation or res-  
12 toration and any actions taken to prevent future  
13 grounding incidents; and

14 “(6) recommendations for additional naviga-  
15 tional aids or other mechanisms for preventing fu-  
16 ture grounding incidents.

17 “(b) IDENTIFICATION OF AT-RISK REEFS.—The Sec-  
18 retary may—

19 “(1) use information from any inventory main-  
20 tained under subsection (a) or any other available  
21 information source to identify coral reef ecosystems  
22 that have a high incidence of vessel impacts, includ-  
23 ing groundings and anchor damage;

24 “(2) identify appropriate measures, including  
25 the acquisition and placement of aids to navigation,



1 moorings, fixed anchors and other devices, to reduce  
 2 the likelihood of such impacts; and

3 “(3) develop a strategy and timetable to imple-  
 4 ment such measures, including cooperative actions  
 5 with other government agencies and non-govern-  
 6 mental partners.”.

7 **SEC. 12. PROHIBITED ACTIVITIES.**

8 The Act (16 U.S.C. 6401 et seq.) is amended by fur-  
 9 ther redesignating sections 211 through 213, as redesign-  
 10 nated, as sections 217 through 220, and inserting after  
 11 section 210 the following:

12 **“SEC. 211. PROHIBITED ACTIVITIES AND SCOPE OF PROHI-**  
 13 **BITIONS.**

14 “(a) PROVISIONS AS COMPLEMENTARY.—The provi-  
 15 sions of this section are in addition to, and shall not affect  
 16 the operation of, other Federal, State, or local laws or reg-  
 17 ulations providing protection to coral reef ecosystems.

18 “(b) DESTRUCTION, LOSS, TAKING, OR INJURY.—

19 “(1) IN GENERAL.—Except as provided in para-  
 20 graph (2), it is unlawful for any person to destroy,  
 21 take, cause the loss of, or injure any coral reef or  
 22 any component thereof.

23 “(2) EXCEPTIONS.—The destruction, loss, tak-  
 24 ing, or injury of a coral reef or any component  
 25 thereof is not unlawful if it—

1           “(A) was caused by the use of fishing gear  
2           used in a manner permitted under the Magnu-  
3           son-Stevens Fishery Conservation and Manage-  
4           ment Act (16 U.S.C. 1801 et seq.) or other  
5           Federal or State law;

6           “(B) was caused by an activity that is au-  
7           thorized by Federal or State law (including law-  
8           ful discharges from vessels of graywater, cooling  
9           water, engine exhaust, ballast water, or sewage  
10          from marine sanitation devices), unless the de-  
11          struction, loss, or injury resulted from actions  
12          such as vessel groundings, vessel scrapings, an-  
13          chor damage, excavation not authorized by Fed-  
14          eral or State permit, or other similar activities;

15          “(C) was the necessary result of bona fide  
16          marine scientific research (including marine sci-  
17          entific research activities approved by Federal,  
18          State, or local permits), other than excessive  
19          sampling or collecting, or actions such as vessel  
20          groundings, vessel scrapings, anchor damage,  
21          excavation, or other similar activities;

22          “(D) was caused by a Federal Government  
23          agency—

24               “(i) during—

1                   “(I) an emergency that posed an  
2                   unacceptable threat to human health  
3                   or safety or to the marine environ-  
4                   ment;

5                   “(II) an emergency that posed a  
6                   threat to national security; or

7                   “(III) an activity necessary for  
8                   law enforcement or search and rescue;  
9                   and

10                  could not reasonably be avoided; or

11                  “(E) was caused by an action taken to en-  
12                  sure the safety of the vessel or the lives of pas-  
13                  sengers or crew.

14                  “(c) INTERFERENCE WITH ENFORCEMENT.—It is  
15                  unlawful for any person to interfere with the enforcement  
16                  of this title by—

17                  “(1) refusing to permit any officer authorized  
18                  to enforce this title to board a vessel (other than a  
19                  vessel operated by the Department of Defense or  
20                  United States Coast Guard) subject to such person’s  
21                  control for the purposes of conducting any search or  
22                  inspection in connection with the enforcement of this  
23                  title;

24                  “(2) resisting, opposing, impeding, intimidating,  
25                  harassing, bribing, interfering with, or forcibly as-

1       saulting any person authorized by the Secretary to  
 2       implement this title or any such authorized officer in  
 3       the conduct of any search or inspection performed  
 4       under this title; or

5               “(3) submitting false information to the Sec-  
 6       retary or any officer authorized to enforce this title  
 7       in connection with any search or inspection con-  
 8       ducted under this title.

9       “(d) VIOLATIONS OF TITLE, PERMIT, OR REGULA-  
 10      TION.—It is unlawful for any person to violate any provi-  
 11      sion of this title, any permit issued pursuant to this title,  
 12      or any regulation promulgated pursuant to this title.

13       “(e) POSSESSION AND DISTRIBUTION.—It is unlaw-  
 14      ful for any person to possess, sell, deliver, carry, transport,  
 15      or ship by any means any coral taken in violation of this  
 16      title.”.

17      **SEC. 13. DESTRUCTION OF CORAL REEFS.**

18       The Act (16 U.S.C. 6401 et seq.) is further amended  
 19      by inserting after section 211, as added by section 12, the  
 20      following:

21      **“SEC. 212. DESTRUCTION, LOSS, OR TAKING OF, OR INJURY**  
 22               **TO, CORAL REEFS.**

23       “(a) LIABILITY.—

24               “(1) LIABILITY TO THE UNITED STATES.—Ex-  
 25      cept as provided in subsection (f), all persons who

1 engage in an activity that is prohibited under sub-  
2 sections (a) or (c) of section 211, or create an immi-  
3 nent risk thereof, are liable, jointly and severally, to  
4 the United States for an amount equal to the sum  
5 of—

6 “(A) response costs and damages resulting  
7 from the destruction, loss, taking, or injury, or  
8 imminent risk thereof, including damages re-  
9 sulting from the response actions;

10 “(B) costs of seizure, forfeiture, storage,  
11 and disposal arising from liability under this  
12 section; and

13 “(C) interest on that amount calculated in  
14 the manner described in section 1005 of the Oil  
15 Pollution Act of 1990 (33 U.S.C. 2705).

16 “(2) LIABILITY IN REM.—

17 “(A) Any vessel used in an activity that is  
18 prohibited under subsection (a) or (c) of section  
19 211, or creates an imminent risk thereof, shall  
20 be liable in rem to the United States for an  
21 amount equal to the sum of—

22 “(i) response costs and damages re-  
23 sulting from such destruction, loss, or in-  
24 jury, or imminent risk thereof, including

1 damages resulting from the response ac-  
2 tions;

3 “(ii) costs of seizure, forfeiture, stor-  
4 age, and disposal arising from liability  
5 under this section; and

6 “(iii) interest on that amount cal-  
7 culated in the manner described in section  
8 1005 of the Oil Pollution Act of 1990 (33  
9 U.S.C. 2705).

10 “(B) The amount of liability shall con-  
11 stitute a maritime lien on the vessel and may  
12 be recovered in an action in rem in any district  
13 court of the United States that has jurisdiction  
14 over the vessel.

15 “(3) DEFENSES.—A person or vessel is not lia-  
16 ble under this subsection if that person or vessel es-  
17 tablishes that the destruction, loss, taking, or injury  
18 was caused solely by an act of God, an act of war,  
19 or an act or omission of a third party (other than  
20 an employee or agent of the defendant or one whose  
21 act or omission occurs in connection with a contrac-  
22 tual relationship, existing directly or indirectly with  
23 the defendant), and the person or master of the ves-  
24 sel acted with due care.

1           “(4) NO LIMIT TO LIABILITY.—Nothing in sec-  
2       tions 30501 through 30512 or section 30706 of title  
3       46, United States Code, shall limit liability to any  
4       person under this title.

5       “(b) RESPONSE ACTIONS AND DAMAGE ASSESS-  
6       MENT.—

7           “(1) RESPONSE ACTIONS.—The Secretary may  
8       undertake or authorize all necessary actions to pre-  
9       vent or minimize the destruction, loss, or taking of,  
10      or injury to, coral reefs, or components thereof, or  
11      to minimize the risk or imminent risk of such de-  
12      struction, loss, or injury.

13          “(2) DAMAGE ASSESSMENT.—

14               “(A) The Secretary shall assess damages  
15              (as defined in section 220(8)) to coral reefs and  
16              shall consult with State officials regarding re-  
17              sponse and damage assessment actions under-  
18              taken for coral reefs within State waters.

19               “(B) There shall be no double recovery  
20              under this chapter for coral reef damages, in-  
21              cluding the cost of damage assessment, for the  
22              same incident.

23          “(c) COMMENCEMENT OF CIVIL ACTION FOR RE-  
24       SPONSE COSTS AND DAMAGES.—

1           “(1) COMMENCEMENT.—The Attorney General,  
2       upon the request of the Secretary, may commence a  
3       civil action against any person or vessel that may be  
4       liable under subsection (a) of this section for re-  
5       sponse costs, seizure, forfeiture, storage, or disposal  
6       costs, and damages, and interest on that amount  
7       calculated in the manner described in section 1005  
8       of the Oil Pollution Act of 1990 (33 U.S.C. 2705).  
9       The Secretary, acting as trustee for coral reefs for  
10      the United States, shall submit a request for such  
11      an action to the Attorney General whenever a person  
12      may be liable for such costs or damages.

13           “(2) VENUE IN CIVIL ACTIONS.—A civil action  
14      under this title may be brought in the United States  
15      district court for any district in which—

16           “(A) the defendant is located, resides, or is  
17           doing business, in the case of an action against  
18           a person;

19           “(B) the vessel is located, in the case of an  
20           action against a vessel;

21           “(C) the destruction, loss, or taking of, or  
22           injury to a coral reef, or component thereof, oc-  
23           curred or in which there is an imminent risk of  
24           such destruction, loss, or injury; or



1           “(D) where some or all of the coral reef or  
2           component thereof that is the subject of the ac-  
3           tion is not within the territory covered by any  
4           United States district court, such action may be  
5           brought either in the United States district  
6           court for the district closest to the location  
7           where the destruction, loss, injury, or risk of in-  
8           jury occurred, or in the United States District  
9           Court for the District of Columbia.

10       “(d) USE OF RECOVERED AMOUNTS.—Any costs, in-  
11       cluding response costs and damages recovered by the Sec-  
12       retary under this section shall—

13           “(1) be deposited into an account or accounts  
14       in the Damage Assessment Restoration Revolving  
15       Fund established by the Department of Commerce  
16       Appropriations Act, 1991 (33 U.S.C. 2706 note), or  
17       the Natural Resource Damage Assessment and Res-  
18       toration Fund established by the Department of the  
19       Interior and Related Agencies Appropriations Act,  
20       1992 (43 U.S.C. 1474b), as appropriate given the  
21       location of the violation;

22           “(2) be available for use by the Secretary with-  
23       out further appropriation and remain available until  
24       expended; and

1           “(3) be for use, as the Secretary considers ap-  
2       propriate—

3           “(A) to reimburse the Secretary or any  
4       other Federal or State agency that conducted  
5       activities under subsection (a) or (b) of this sec-  
6       tion for costs incurred in conducting the activ-  
7       ity;

8           “(B) to be transferred to the Emergency  
9       Response, Stabilization and Restoration Ac-  
10      count established under section 208(d) to reim-  
11      burse that account for amounts used for au-  
12      thorized emergency actions; and

13          “(C) after reimbursement of such costs, to  
14      restore, replace, or acquire the equivalent of  
15      any coral reefs, or components thereof, includ-  
16      ing the reasonable costs of monitoring, or to  
17      minimize or prevent threats of equivalent injury  
18      to, or destruction of coral reefs, or components  
19      thereof.

20          “(e) STATUTE OF LIMITATIONS.—An action for re-  
21      sponse costs or damages under subsection (c) shall be  
22      barred unless the complaint is filed within 3 years after  
23      the date on which the Secretary completes a damage as-  
24      sessment and restoration plan for the coral reefs, or com-  
25      ponents thereof, to which the action relates. If the Sec-

1 retary fails to complete such damage assessment and res-  
 2 toration plan within one year after discovery of the dam-  
 3 age, then for the purposes of this subsection such assess-  
 4 ment and plan shall be deemed to have been completed  
 5 by the Secretary on the 366th day following discovery of  
 6 the damage.

7 “(f) FEDERAL GOVERNMENT ACTIVITIES.—In the  
 8 event of threatened or actual destruction of, loss of, or  
 9 injury to a coral reef or component thereof resulting from  
 10 an incident caused by a component of any Department or  
 11 agency of the United States Government, the cognizant  
 12 Department or agency shall satisfy its obligations under  
 13 this section by promptly, in coordination with the Sec-  
 14 retary, taking appropriate actions to respond to and miti-  
 15 gate the harm and restoring or replacing the coral reef  
 16 or components thereof and reimbursing the Secretary for  
 17 all assessment costs.”.

18 **SEC. 14. ENFORCEMENT.**

19 The Act (16 U.S.C. 6401 et seq.) is further amended  
 20 by inserting after section 212, as added by section 13, the  
 21 following:

22 **“SEC. 213. ENFORCEMENT.**

23 “(a) IN GENERAL.—The Secretary shall conduct en-  
 24 forcement activities to carry out this title.

1       “(b) POWERS OF AUTHORIZED OFFICERS.—Any per-  
2 son who is authorized to enforce this title may—

3           “(1) board, search, inspect, and seize any vessel  
4 or other conveyance suspected of being used to vio-  
5 late this title, any regulation promulgated under this  
6 title, or any permit issued under this title, and any  
7 equipment, stores, and cargo of such vessel;

8           “(2) seize wherever found any component of  
9 coral reef taken or retained in violation of this title,  
10 any regulation promulgated under this title, or any  
11 permit issued under this title;

12           “(3) seize any evidence of a violation of this  
13 title, any regulation promulgated under this title, or  
14 any permit issued under this title;

15           “(4) execute any warrant or other process  
16 issued by any court of competent jurisdiction;

17           “(5) exercise any other lawful authority; and

18           “(6) arrest any person, if there is reasonable  
19 cause to believe that such person has committed an  
20 act prohibited by section 211.

21       “(c) CIVIL ENFORCEMENT AND PERMIT SANC-  
22 TIONS.—

23           “(1) CIVIL ADMINISTRATIVE PENALTY.—Any  
24 person subject to the jurisdiction of the United  
25 States who violates this title or any regulation pro-

1 mulgated or permit issued hereunder, shall be liable  
2 to the United States for a civil administrative pen-  
3 alty of not more than \$200,000 for each such viola-  
4 tion, to be assessed by the Secretary. Each day of  
5 a continuing violation shall constitute a separate vio-  
6 lation. In determining the amount of civil adminis-  
7 trative penalty, the Secretary shall take into account  
8 the nature, circumstances, extent, and gravity of the  
9 prohibited acts committed and, with respect to the  
10 violator, the degree of culpability, and any history of  
11 prior violations, and such other matters as justice  
12 may require. In assessing such penalty, the Sec-  
13 retary may also consider information related to the  
14 ability of the violator to pay.

15 “(2) PERMIT SANCTIONS.—For any person sub-  
16 ject to the jurisdiction of the United States who has  
17 been issued or has applied for a permit under this  
18 title, and who violates this title or any regulation or  
19 permit issued under this title, the Secretary may  
20 deny, suspend, amend, or revoke in whole or in part  
21 any such permit. For any person who has failed to  
22 pay or defaulted on a payment agreement of any  
23 civil penalty or criminal fine or liability assessed  
24 pursuant to any natural resource law administered  
25 by the Secretary, the Secretary may deny, suspend,

1 amend or revoke in whole or in part any permit  
2 issued or applied for under this title.

3 “(3) IMPOSITION OF CIVIL JUDICIAL PEN-  
4 ALTIES.—Any person who violates any provision of  
5 this title, any regulation promulgated or permit  
6 issued thereunder, shall be subject to a civil judicial  
7 penalty not to exceed \$250,000 for each such viola-  
8 tion. Each day of a continuing violation shall con-  
9 stitute a separate violation. The Attorney General,  
10 upon the request of the Secretary, may commence a  
11 civil action in an appropriate district court of the  
12 United States, and such court shall have jurisdiction  
13 to award civil penalties and such other relief as jus-  
14 tice may require. In determining the amount of a  
15 civil penalty, the court shall take into account the  
16 nature, circumstances, extent, and gravity of the  
17 prohibited acts committed and, with respect to the  
18 violator, the degree of culpability, any history of  
19 prior violations, and such other matters as justice  
20 may require. In imposing such penalty, the district  
21 court may also consider information related to the  
22 ability of the violator to pay.

23 “(4) NOTICE.—No penalty or permit sanction  
24 shall be assessed under this subsection until after

1 the person charged has been given notice and an op-  
2 portunity for a hearing.

3 “(5) IN REM JURISDICTION.—A vessel used in  
4 violating this title, any regulation promulgated under  
5 this title, or any permit issued under this title, shall  
6 be liable in rem for any civil penalty assessed for  
7 such violation. Such penalty shall constitute a mari-  
8 time lien on the vessel and may be recovered in an  
9 action in rem in the district court of the United  
10 States having jurisdiction over the vessel.

11 “(6) COLLECTION OF PENALTIES.—If any per-  
12 son fails to pay an assessment of a civil penalty  
13 under this section after it has become a final and  
14 unappealable order, or after the appropriate court  
15 has entered final judgment in favor of the Secretary,  
16 the Secretary shall refer the matter to the Attorney  
17 General, who shall recover the amount assessed in  
18 any appropriate district court of the United States  
19 (plus interest at current prevailing rates from the  
20 date of the final order). In such action, the validity  
21 and appropriateness of the final order imposing the  
22 civil penalty shall not be subject to review. Any per-  
23 son who fails to pay, on a timely basis, the amount  
24 of an assessment of a civil penalty shall be required  
25 to pay, in addition to such amount and interest, at-

1       torney’s fees and costs for collection proceedings and  
2       a quarterly nonpayment penalty for each quarter  
3       during which such failure to pay persists. Such non-  
4       payment penalty shall be in an amount equal to 20  
5       percent of the aggregate amount of such person’s  
6       penalties and nonpayment penalties that are unpaid  
7       as of the beginning of such quarter.

8               “(7) COMPROMISE OR OTHER ACTION BY SEC-  
9       RETARY.—The Secretary may compromise, modify,  
10      or remit, with or without conditions, any civil admin-  
11      istrative penalty or permit sanction which is or may  
12      be imposed under this section and that has not been  
13      referred to the Attorney General for further enforce-  
14      ment action.

15              “(8) JURISDICTION.—The several district  
16      courts of the United States shall have jurisdiction  
17      over any actions brought by the United States aris-  
18      ing under this section. For the purpose of this sec-  
19      tion, American Samoa shall be included within the  
20      judicial district of the District Court of the United  
21      States for the District of Hawaii. Each violation  
22      shall be a separate offense and the offense shall be  
23      deemed to have been committed not only in the dis-  
24      trict where the violation first occurred, but also in  
25      any other district as authorized by law.



1 “(d) FORFEITURE.—

2 “(1) CRIMINAL FORFEITURE.—A person who is  
3 convicted of an offense in violation of this title shall  
4 forfeit to the United States—

5 “(A) any property, real or personal, consti-  
6 tuting or traceable to the gross proceeds taken,  
7 obtained, or retained, in connection with or as  
8 a result of the offense, including, without limi-  
9 tation, any coral reef or coral reef component  
10 (or the fair market value thereof); and

11 “(B) any property, real or personal, used  
12 or intended to be used, in any manner, to com-  
13 mit or facilitate the commission of the offense,  
14 including, without limitation, any vessel (includ-  
15 ing the vessel’s equipment, stores, catch and  
16 cargo), vehicle, aircraft, or other means of  
17 transportation.

18 Pursuant to section 2461(c) of title 28, United  
19 States Code, the provisions of section 413 of the  
20 Controlled Substances Act (21 U.S.C. 853) other  
21 than subsection (d) thereof shall apply to criminal  
22 forfeitures under this section.

23 “(2) CIVIL FORFEITURE.—The property set  
24 forth below shall be forfeited to the United States in  
25 accordance with the provisions of chapter 46 of title

1 18, United States Code, and no property right shall  
2 exist in it:

3 “(A) Any property, real or personal, con-  
4 stituting or traceable to the gross proceeds  
5 taken, obtained, or retained, in connection with  
6 or as a result of a violation of this title, includ-  
7 ing, without limitation, any coral reef or coral  
8 reef component (or the fair market value there-  
9 of).

10 “(B) Any property, real or personal, used  
11 or intended to be used, in any manner, to com-  
12 mit or facilitate the commission of a violation of  
13 this title, including, without limitation, any ves-  
14 sel (including the vessel’s equipment, stores,  
15 catch and cargo), vehicle, aircraft, or other  
16 means of transportation.

17 “(3) APPLICATION OF THE CUSTOMS LAWS.—

18 All provisions of law relating to seizure, summary  
19 judgment, and judicial forfeiture and condemnation  
20 for violation of the customs laws, the disposition of  
21 the property forfeited or condemned or the proceeds  
22 from the sale thereof, the remission or mitigation of  
23 such forfeitures, and the compromise of claims shall  
24 apply to seizures and forfeitures incurred, or alleged  
25 to have been incurred, under the provisions of this

1 title, insofar as applicable and not inconsistent with  
2 the provisions hereof. For seizures and forfeitures of  
3 property under this section by the Secretary, such  
4 duties as are imposed upon the customs officer or  
5 any other person with respect to the seizure and for-  
6 feiture of property under the customs law may be  
7 performed by such officers as are designated by the  
8 Secretary or, upon request of the Secretary, by any  
9 other agency that has authority to manage and dis-  
10 pose of seized property.

11 “(4) PRESUMPTION.—For the purposes of this  
12 section there is a rebuttable presumption that all  
13 coral reefs, or components thereof, found on board  
14 a vessel that is used or seized in connection with a  
15 violation of this title or of any regulation promul-  
16 gated under this title were taken, obtained, or re-  
17 tained in violation of this title or of a regulation pro-  
18 mulgated under this title.

19 “(e) PAYMENT OF STORAGE, CARE, AND OTHER  
20 COSTS.—Any person assessed a civil penalty for a viola-  
21 tion of this title or of any regulation promulgated under  
22 this title and any claimant in a forfeiture action brought  
23 for such a violation, shall be liable for the reasonable costs  
24 incurred by the Secretary in storage, care, and mainte-

1 nance of any property seized in connection with the viola-  
 2 tion.

3 “(f) EXPENDITURES.—

4 “(1) Notwithstanding section 3302 of title 31,  
 5 United States Code, or section 311 of the Magnu-  
 6 son-Stevens Fishery Conservation and Management  
 7 Act (16 U.S.C. 1861), amounts received by the  
 8 United States as civil penalties under subsection (c)  
 9 of this section, forfeitures of property under sub-  
 10 section (d) of this section, and costs imposed under  
 11 subsection (e) of this section, shall—

12 “(A) be placed into an account;

13 “(B) be available for use by the Secretary  
 14 without further appropriation; and

15 “(C) remain available until expended.

16 “(2) Amounts received under this section for  
 17 forfeitures under subsection (d) and costs imposed  
 18 under subsection (e) shall be used to pay the reason-  
 19 able and necessary costs incurred by the Secretary  
 20 to provide temporary storage, care, maintenance,  
 21 and disposal of any property seized in connection  
 22 with a violation of this title or any regulation pro-  
 23 mulgated under this title.

24 “(3) Amounts received under this section as  
 25 civil penalties under subsection (c) of this section

1       and any amounts remaining after the operation of  
2       paragraph (2) of this subsection shall—

3               “(A) be used to stabilize, restore, or other-  
4       wise manage the coral reef with respect to  
5       which the violation occurred that resulted in the  
6       penalty or forfeiture;

7               “(B) be transferred to the Emergency Re-  
8       sponse, Stabilization, and Restoration Account  
9       established under section 208(d) or an account  
10      described in section 212(d)(1) of this title, to  
11      reimburse such account for amounts used for  
12      authorized emergency actions;

13              “(C) be used to conduct monitoring and  
14      enforcement activities;

15              “(D) be used to conduct research on tech-  
16      niques to stabilize and restore coral reefs;

17              “(E) be used to conduct activities that pre-  
18      vent or reduce the likelihood of future damage  
19      to coral reefs;

20              “(F) be used to stabilize, restore or other-  
21      wise manage any other coral reef; or

22              “(G) be used to pay a reward to any per-  
23      son who furnishes information leading to an as-  
24      sessment of a civil penalty, or to a forfeiture of

1           property, for a violation of this title or any reg-  
2           ulation promulgated under this title.

3           “(g) CRIMINAL ENFORCEMENT.—

4           “(1) Any person (other than a foreign govern-  
5           ment or any entity of such government) who know-  
6           ingly commits any act prohibited by section 211(b)  
7           of this title shall be imprisoned for not more than  
8           5 years and shall be fined not more than \$500,000  
9           for individuals or \$1,000,000 for an organization;  
10          except that if in the commission of any such offense  
11          the individual uses a dangerous weapon, engages in  
12          conduct that causes bodily injury to any officer au-  
13          thorized to enforce the provisions of this title, or  
14          places any such officer in fear of imminent bodily in-  
15          jury, the maximum term of imprisonment is not  
16          more than 10 years.

17          “(2) Any person (other than a foreign govern-  
18          ment or any entity of such government) who know-  
19          ingly violates subsection (a) or (c) of section 211  
20          shall be fined under title 18, United States Code, or  
21          imprisoned not more than 5 years or both.

22          “(3) The several district courts of the United  
23          States shall have jurisdiction over any actions  
24          brought by the United States arising under this sub-  
25          section. For the purpose of this subsection, Amer-

1        ican Samoa shall be included within the judicial dis-  
2        trict of the District Court of the United States for  
3        the District of Hawaii. Each violation shall be a sep-  
4        arate offense and the offense shall be deemed to  
5        have been committed not only in the district where  
6        the violation first occurred, but also in any other  
7        district as authorized by law. Any offenses not com-  
8        mitted in any district are subject to the venue provi-  
9        sions of section 3238 of title 18, United States  
10       Code.

11       “(h) SUBPOENAS.—In the case of any investigation  
12       or hearing under this section or any other natural resource  
13       statute administered by the National Oceanic and Atmos-  
14       pheric Administration which is determined on the record  
15       in accordance with the procedures provided for under sec-  
16       tion 554 of title 5, United States Code, the Secretary may  
17       issue subpoenas for the attendance and testimony of wit-  
18       nesses and the production of relevant papers, books, elec-  
19       tronic files, and documents, and may administer oaths.

20       “(i) COAST GUARD AUTHORITY NOT LIMITED.—  
21       Nothing in this section shall be considered to limit the au-  
22       thority of the Coast Guard to enforce this or any other  
23       Federal law under section 89 of title 14, United States  
24       Code.

25       “(j) INJUNCTIVE RELIEF.—

1           “(1) If the Secretary determines that there is  
2           an imminent risk of destruction or loss of or injury  
3           to a coral reef, or that there has been actual de-  
4           struction or loss of, or injury to, a coral reef which  
5           may give rise to liability under section 212 of this  
6           title, the Attorney General, upon request of the Sec-  
7           retary, shall seek to obtain such relief as may be  
8           necessary to abate such risk or actual destruction,  
9           loss, or injury, or to restore or replace the coral reef,  
10          or both. The district courts of the United States  
11          shall have jurisdiction in such a case to order such  
12          relief as the public interest and the equities of the  
13          case may require.

14          “(2) Upon the request of the Secretary, the At-  
15          torney General may seek to enjoin any person who  
16          is alleged to be in violation of any provision of this  
17          title, or any regulation or permit issued under this  
18          title, and the district courts shall have jurisdiction to  
19          grant such relief.

20          “(k) AREA OF APPLICATION AND ENFORCE-  
21 ABILITY.—The area of application and enforceability of  
22 this title includes the internal waters of the United States,  
23 the territorial sea of the United States, as described in  
24 Presidential Proclamation 5928 of December 27, 1988,  
25 the Exclusive Economic Zone of the United States as de-



1 scribed in Presidential Proclamation 5030 of March 10,  
2 1983, and the continental shelf, consistent with inter-  
3 national law.

4 “(l) NATIONWIDE SERVICE OF PROCESS.—In any ac-  
5 tion by the United States under this title, process may  
6 be served in any district where the defendant is found,  
7 resides, transacts business, or has appointed an agent for  
8 the service of process, and for civil cases may also be  
9 served in a place not within the United States in accord-  
10 ance with rule 4 of the Federal Rules of Civil Procedure.

11 “(m) VENUE IN CIVIL ACTIONS.—A civil action  
12 under this title may be brought in the United States dis-  
13 trict court for any district in which—

14 “(1) the defendant is located, resides, or is  
15 doing business, in the case of an action against a  
16 person;

17 “(2) the vessel is located, in the case of an ac-  
18 tion against a vessel;

19 “(3) the destruction of, loss of, or injury to a  
20 coral reef, or component thereof, occurred or in  
21 which there is an imminent risk of such destruction,  
22 loss, or injury; or

23 “(4) where some or all of the coral reef or com-  
24 ponent thereof that is the subject of the action is not  
25 within the territory covered by any United States

1 district court, such action may be brought either in  
2 the United States district court for the district clos-  
3 est to the location where the destruction, loss, in-  
4 jury, or risk of injury occurred, or in the United  
5 States District Court for the District of Columbia.”.

6 **SEC. 15. PERMITS.**

7 The Act (16 U.S.C. 6401 et seq.) is further amended  
8 by inserting after section 213, as added by section 14, the  
9 following:

10 **“SEC. 214. PERMITS.**

11 “(a) IN GENERAL.—The Secretary may allow for the  
12 conduct of—

13 “(1) bona fide research, and

14 “(2) activities that would otherwise be prohib-  
15 ited by this title or regulations issued thereunder,  
16 through issuance of coral reef conservation permits in ac-  
17 cordance with regulations issued under this title.

18 “(b) LIMITATION OF NON-RESEARCH ACTIVITIES.—  
19 The Secretary may not issue a permit for activities other  
20 than for bona fide research unless the Secretary finds—

21 “(1) the activity proposed to be conducted is  
22 compatible with one or more of the purposes in sec-  
23 tion 202(b) of this title;

1           “(2) the activity conforms to the provisions of  
2           all other laws and regulations applicable to the area  
3           for which such permit is to be issued; and

4           “(3) there is no practicable alternative to con-  
5           ducting the activity in a manner that destroys,  
6           causes the loss of, or injures any coral reef or any  
7           component thereof.

8           “(c) TERMS AND CONDITIONS.—The Secretary may  
9           place any terms and conditions on a permit issued under  
10          this section that the Secretary deems reasonable.

11          “(d) FEES.—

12           “(1) ASSESSMENT AND COLLECTION.—Subject  
13          to regulations issued under this title, the Secretary  
14          may assess and collect fees as specified in this sub-  
15          section.

16           “(2) AMOUNT.—Any fee assessed shall be equal  
17          to the sum of—

18           “(A) all costs incurred, or expected to be  
19          incurred, by the Secretary in processing the  
20          permit application, including indirect costs; and

21           “(B) if the permit is approved, all costs in-  
22          curred, or expected to be incurred, by the Sec-  
23          retary as a direct result of the conduct of the  
24          activity for which the permit is issued, including  
25          costs of monitoring the conduct of the activity

1           and educating the public about the activity and  
2           coral reef resources related to the activity.

3           “(3) USE OF FEES.—Amounts collected by the  
4           Secretary in the form of fees under this section shall  
5           be collected and available for use only to the extent  
6           provided in advance in appropriations Acts and may  
7           be used by the Secretary for issuing and admin-  
8           istering permits under this section.

9           “(4) WAIVER OR REDUCTION OF FEES.—For  
10          any fee assessed under paragraph (2) of this sub-  
11          section, the Secretary may—

12                 “(A) accept in-kind contributions in lieu of  
13                 a fee; or

14                 “(B) waive or reduce the fee.

15          “(e) FISHING.—Nothing in this section shall be con-  
16          sidered to require a person to obtain a permit under this  
17          section for the conduct of any fishing activities not prohib-  
18          ited by this title or regulations issued thereunder.”.

19   **SEC. 16. REGIONAL, STATE, AND TERRITORIAL COORDINA-**  
20                   **TION..**

21          The Act (16 U.S.C. 6401 et seq.) is further amended  
22          by inserting after section 214, as added by section 15, the  
23          following:

1 **“SEC. 215. REGIONAL, STATE, AND TERRITORIAL COORDI-**  
2 **NATION.**

3 “(a) REGIONAL COORDINATION.—The Secretary  
4 shall work in coordination and collaboration with other  
5 Federal agencies, States, and United States territorial  
6 governments to implement the strategies developed under  
7 section 203, including regional and local strategies, to ad-  
8 dress multiple threats to coral reefs and coral reef eco-  
9 systems such as coastal runoff, vessel impacts, and over-  
10 harvesting.

11 “(b) RESPONSE AND RESTORATION ACTIVITIES.—  
12 The Secretary shall, when appropriate, enter into a writ-  
13 ten agreement with any affected State regarding the man-  
14 ner in which response and restoration activities will be  
15 conducted within the affected State’s waters.

16 “(c) COOPERATIVE ENFORCEMENT AGREEMENTS.—  
17 All cooperative enforcement agreements in place between  
18 the Secretary and States affected by this title shall be up-  
19 dated to include enforcement of this title where appro-  
20 priate.”.

21 **SEC. 17. REGULATIONS.**

22 The Act (16 U.S.C. 6401 et seq.) is further amended  
23 by inserting after section 215, as added by section 16, the  
24 following:

1 **“SEC. 216. REGULATIONS.**

2 “The Secretary may issue such regulations as are  
3 necessary and appropriate to carry out the purposes of  
4 this title. This title and any regulations promulgated  
5 under this title shall be applied in accordance with inter-  
6 national law. No restrictions shall apply to or be enforced  
7 against a person who is not a citizen, national, or resident  
8 alien of the United States (including foreign flag vessels)  
9 unless in accordance with international law.”.

10 **SEC. 18. EFFECTIVENESS REPORT.**

11 Section 217 (formerly 16 U.S.C. 6407), as redesign-  
12 nated, is amended to read as follows:

13 **“SEC. 217. EFFECTIVENESS REPORT.**

14 “Not later than March 1, 2009, and every 3 years  
15 thereafter, the Secretary shall submit to the Committee  
16 on Commerce, Science, and Transportation of the Senate  
17 and the Committee on Resources of the House of Rep-  
18 resentatives a report describing all activities undertaken  
19 to implement the strategy, including—

20 “(1) a description of the funds obligated by  
21 each participating Federal agency to advance coral  
22 reef conservation during each of the 3 fiscal years  
23 next preceding the fiscal year in which the report is  
24 submitted;

25 “(2) a description of Federal interagency and  
26 cooperative efforts with States and United States

1 territories to prevent or address overharvesting,  
2 coastal runoff, or other anthropogenic impacts on  
3 coral reefs, including projects undertaken with the  
4 Department of Interior, Department of Agriculture,  
5 the Environmental Protection Agency, and the  
6 United States Army Corps of Engineers;

7 “(3) a summary of the information contained in  
8 the vessel grounding inventory established under sec-  
9 tion 210, including additional authorization or fund-  
10 ing, needed for response and removal of such ves-  
11 sels;”

12 “(4) a description of Federal disaster response  
13 actions taken pursuant to the National Response  
14 Plan to address damage to coral reefs and coral reef  
15 ecosystems; and

16 “(5) an assessment of the condition of United  
17 States coral reefs, accomplishments under this Act,  
18 and the effectiveness of management actions to ad-  
19 dress threats to coral reefs.”.

20 **SEC. 19. AUTHORIZATION OF APPROPRIATIONS.**

21 Section 218 (formerly 16 U.S.C. 6408), as redesign-  
22 nated, is amended—

23 (1) by striking “\$16,000,000 for each of fiscal  
24 years 2001, 2002, 2003, and 2004,” in subsection  
25 (a) and inserting “\$34,000,000 for fiscal year 2008,

1       \$36,000,000 for fiscal year 2009, \$38,000,000 for  
 2       fiscal year 2010, and \$40,000,000 for each of fiscal  
 3       years 2011 through 2014, of which no less than 30  
 4       percent per year (for each of fiscal years 2008  
 5       through 2014) shall be used for the grant program  
 6       under section 204 and up to 10 percent per year  
 7       shall be used for the Fund established under section  
 8       205(a),”;

9               (2) by striking “\$1,000,000” in subsection (b)  
 10       and inserting “\$2,000,000”;

11              (3) by striking subsection (c) and inserting the  
 12       following:

13       “(c) COMMUNITY-BASED PLANNING GRANTS.—  
 14       There is authorized to be appropriated to the Secretary  
 15       to carry out section 209 the sum of \$8,000,000 for fiscal  
 16       years 2007 through 2012, such sum to remain available  
 17       until expended.”; and

18              (4) by striking subsection (d).

19       **SEC. 20. JUDICIAL REVIEW.**

20       The Act (16 U.S.C. 6401 et seq.) is further amended  
 21       by inserting after section 218, as amended by section 19,  
 22       the following:

23       **“SEC. 219. JUDICIAL REVIEW.**

24       “(a) IN GENERAL.—Judicial review of any action  
 25       taken by the Secretary under this title shall be in accord-



1   ance with sections 701 through 706 of title 5, United  
2   States Code, except that—

3           “(1) review of any final agency action of the  
4       Secretary taken pursuant to sections 211(c)(1) and  
5       211(c)(2) may be had only by the filing of a com-  
6       plaint by an interested person in the United States  
7       District Court for the appropriate district within 30  
8       days after the date such final agency action is taken;  
9       and

10           “(2) review of all other final agency actions of  
11       the Secretary under this title may be had only by  
12       the filing of a petition for review by an interested  
13       person in the Circuit Court of Appeals of the United  
14       States for the Federal judicial district in which such  
15       person resides or transacts business which is directly  
16       affected by the action taken within 120 days after  
17       the date such final agency action is taken.

18       “(b) NO REVIEW IN ENFORCEMENT PRO-  
19   CEEDINGS.—Final agency action with respect to which re-  
20   view could have been obtained under subsection (a)(2)  
21   shall not be subject to judicial review in any civil or crimi-  
22   nal proceeding for enforcement.

23       “(c) COST OF LITIGATION.—In any judicial pro-  
24   ceeding under subsection (a), the court may award costs  
25   of litigation (including reasonable attorney and expert wit-

ness fees) to any prevailing party whenever it determines that such award is appropriate.”.

**SEC. 21. DEFINITIONS.**

Section 220 (formerly 16 U.S.C. 6409), as redesignated, is amended to read as follows:

**“SEC. 220. DEFINITIONS.**

“In this title:

“(1) BIODIVERSITY.—The term ‘biodiversity’ means the variability among living organisms from all sources including, inter alia, terrestrial, marine, and other aquatic ecosystems and the ecological complexes of which they are part, including diversity within species, between species, and of ecosystems.

“(2) CONSERVATION.—The term ‘conservation’ means the use of methods and procedures necessary to preserve or sustain corals and associated species and habitat as resilient, diverse, viable, and self-perpetuating coral reef ecosystems, including all activities associated with resource management (such as assessment, conservation, protection, restoration, sustainable use, and management of habitat, mapping, habitat monitoring, assistance in the development of management strategies for marine protected areas and marine resources consistent with the National Marine Sanctuaries Act (16 U.S.C. 1431 et

1        seq.) and the Magnuson-Stevens Fishery Conserva-  
 2        tion and Management Act (16 U.S.C. 1801 et seq.),  
 3        law enforcement, conflict resolution initiatives, and  
 4        community outreach and education) that promote  
 5        safe and ecologically sound navigation.

6            “(3) CORAL.—The term ‘coral’ means species  
 7        of the phylum Cnidaria, including—

8            “(A) all species of the orders Antipatharia  
 9            (black corals), Scleractinia (stony corals),  
 10          Gorgonacea (horny corals), Stolonifera  
 11          (organpipe corals and others), Alcyonacea (soft  
 12          corals), and Helioporacea (blue coral) of the  
 13          class Anthozoa; and

14          “(B) all species of the families Milleporidea  
 15          (fire corals) and Stylasteridae (stylasterid  
 16          hydrocorals) of the class Hydrozoa.

17          “(4) CORAL REEF.—The term ‘coral reef’  
 18        means limestone structures composed in whole or in  
 19        part of living corals, as described in paragraph (3),  
 20        their skeletal remains, or both, and including other  
 21        corals, associated sessile invertebrates and plants,  
 22        and any adjacent or associated seagrasses.

23          “(5) CORAL REEF COMPONENT.—The term  
 24        ‘coral reef component’ means any part of a coral  
 25        reef, including individual living or dead corals, asso-

1       ciated sessile invertebrates and plants, and any adja-  
 2       cent or associated seagrasses.

3               “(6) CORAL REEF ECOSYSTEM.—The term  
 4       ‘coral reef ecosystem’ means the system of coral  
 5       reefs and geographically associated species, habitats,  
 6       and environment, including mangroves and seagrass  
 7       habitats, and the processes that control its dynam-  
 8       ics.

9               “(7) CORAL PRODUCTS.—The term ‘coral prod-  
 10       ucts’ means any living or dead specimens, parts, or  
 11       derivatives, or any product containing specimens,  
 12       parts, or derivatives, of any species referred to in  
 13       paragraph (3).

14              “(8) DAMAGES.—The term ‘damages’ in-  
 15       cludes—

16                   “(A) compensation for—

17                           “(i) the cost of replacing, restoring, or  
 18                           acquiring the equivalent of the coral reef,  
 19                           or component thereof; and

20                           “(ii) the lost services of, or the value  
 21                           of the lost use of, the coral reef or compo-  
 22                           nent thereof, or the cost of activities to  
 23                           minimize or prevent threats of, equivalent  
 24                           injury to, or destruction of coral reefs or  
 25                           components thereof, pending restoration or

1 replacement or the acquisition of an equiv-  
2 alent coral reef or component thereof;

3 “(B) the reasonable cost of damage assess-  
4 ments under section 212;

5 “(C) the reasonable costs incurred by the  
6 Secretary in implementing section 208(d);

7 “(D) the reasonable cost of monitoring ap-  
8 propriate to the injured, restored, or replaced  
9 resources;

10 “(E) the reasonable cost of curation, con-  
11 servation and loss of contextual information of  
12 any coral encrusted archaeological, historical,  
13 and cultural resource;

14 “(F) the cost of legal actions under section  
15 212, undertaken by the United States, associ-  
16 ated with the destruction or loss of, or injury  
17 to, a coral reef or component thereof, including  
18 the costs of attorney time and expert witness  
19 fees; and

20 “(G) the indirect costs associated with the  
21 costs listed in subparagraphs (A) through (F)  
22 of this paragraph.

23 “(9) EMERGENCY ACTIONS.—The term ‘emer-  
24 gency actions’ means all necessary actions to prevent  
25 or minimize the additional destruction or loss of, or

1 injury to, coral reefs or components thereof, or to  
2 minimize the risk of such additional destruction,  
3 loss, or injury.

4 “(10) EXCLUSIVE ECONOMIC ZONE.—The term  
5 ‘Exclusive Economic Zone’ means the waters of the  
6 Exclusive Economic Zone of the United States under  
7 Presidential Proclamation 5030, dated March 10,  
8 1983.

9 “(11) PERSON.—The term ‘person’ means any  
10 individual, private or public corporation, partnership,  
11 trust, institution, association, or any other public or  
12 private entity, whether foreign or domestic, private  
13 person or entity, or any officer, employee, agent, De-  
14 partment, agency, or instrumentality of the Federal  
15 Government, of any State or local unit of govern-  
16 ment, or of any foreign government.

17 “(12) RESPONSE COSTS.—The term ‘response  
18 costs’ means the costs of actions taken or authorized  
19 by the Secretary to minimize destruction or loss of,  
20 or injury to, a coral reef, or component thereof, or  
21 to minimize the imminent risks of such destruction,  
22 loss, or injury, including costs related to seizure, for-  
23 feiture, storage, or disposal arising from liability  
24 under section 212.

1           “(13) SECRETARY.—The term ‘Secretary’  
2 means—

3           “(A) for purposes of sections 201 through  
4 210, sections 217 through 219, and the other  
5 paragraphs of this section, the Secretary of  
6 Commerce, acting through the Administrator of  
7 the National Oceanic and Atmospheric Admin-  
8 istration; and

9           “(B) for purposes of sections 211 through  
10 219—

11           “(i) the Secretary of the Interior for  
12 any coral reef or component thereof located  
13 in (I) the National Wildlife Refuge System,  
14 (II) the National Park System, and (III)  
15 the waters surrounding Wake Island under  
16 the jurisdiction of the Secretary of the In-  
17 terior, as set forth in Executive Order  
18 11048 (27 Fed. Reg. 8851 (September 4,  
19 1962)); or

20           “(ii) the Secretary of Commerce for  
21 any coral reef or component thereof located  
22 in any area not described in clause (i).

23           “(14) SERVICE.—The term ‘service’ means  
24 functions, ecological or otherwise, performed by a  
25 coral reef or component thereof.

1           “(15) STATE.—The term ‘State’ means any  
2       State of the United States that contains a coral reef  
3       ecosystem within its seaward boundaries, American  
4       Samoa, Guam, the Northern Mariana Islands, Puer-  
5       to Rico, and the Virgin Islands, and any other terri-  
6       tory or possession of the United States, or separate  
7       sovereign in free association with the United States,  
8       that contains a coral reef ecosystem within its sea-  
9       ward boundaries.

10          “(16) TERRITORIAL SEA.—The term ‘Terri-  
11       torial Sea’ means the waters of the Territorial Sea  
12       of the United States under Presidential Proclama-  
13       tion 5928, dated December 27, 1988.”.

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